

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA**

This matter comes before the Court for judicial review of the final decision of the Commissioner of Social Security denying Plaintiff's application for Disability Insurance Benefits ("DIB") and Supplemental Security Income ("SSI"). In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to the United States Magistrate Judge for pretrial handling. The Magistrate Judge issued a Report and Recommendation ("R & R") on January 26, 2021, recommending that the decision of the Commissioner be reversed and remanded to the agency because the Administrative Law Judge ("ALJ") failed to adequately explain the finding of moderate limitations on persistence and/or pace, as required under *Mascio v. Colvin*, 780 F.3d 632, 638 (4<sup>th</sup> Cir. 2015) and the basis for the finding that Plaintiff would be off task 5% of the time. (Dkt. No. 20 at 28-31). The Commissioner has advised the Court he will not file an objection to the R & R. (Dkt. No. 22).

The Court **ADOPTS** the Report and Recommendation as the order of this Court,  
**REVERSES** the decision of the Commissioner pursuant to Sentence Four of 42 U.S.C. § 405(g),  
and **REMANDS** the matter to the Commissioner for further proceedings consistent with this

order.

**AND IT IS SO ORDERED.**

S/ Richard Mark Gergel  
Richard Mark Gergel  
United States District Judge

Charleston, South Carolina  
February 8, 2021